

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,)	Cause No. CR-02-84-BLG-RFC
)	
Plaintiff,)	
)	
v.)	O R D E R
)	
DANTE LANDRY,)	
)	
Defendant.)	
)	

This Court sentenced Defendant to a term of 330 months imprisonment in February of 2003. This sentence was rendered pursuant to the United States Sentencing Guidelines, which at the time were mandatory. Subsequently, the United States Supreme Court has held that the Federal Sentencing Guidelines are advisory. *United States v. Booker*, 125 S.Ct. 738, 764 (2005). On June 19, 2006, the Ninth Circuit remanded Defendant's sentence for reconsideration in light of *Booker* and *Ameline*.

Pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005), this Court must determine "whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory." *Id.* at 1084-85.

In this instance, after reviewing the record, the Court answers the question in the negative - Defendant Landry's sentence would not have been materially different had it known that the Guidelines were advisory.

Under *United States v. Mix*, 457 F.3d 906, 2006 WL 2268636 (9th Cir. 2006) (as amended), this Court is required, in fashioning a reasonable sentence, to conduct parallel analysis – first employing the Guidelines, and then considering the non-guideline sentencing factors under § 3553(a). Pursuant to this directive, the Court concludes that the Guidelines, under the facts and circumstances of this particular case, do adequately take account of the § 3553(a) sentencing factors. Therefore, the Court determines that resentencing Defendant Landry is unwarranted as his sentence would not materially differ under the advisory guideline regime.

In this Brief in Support of a Reduced Sentence on Remand, Defendant Landry asserts that his sentence should be reduced, pursuant to a Rule 35. Based upon this assertion, the Court will consider arguments for further reduction of sentence on **Tuesday, November 21, 2006, at 9:30 a.m.** in Chambers.

DATED this 6th day of October, 2006.

/s/ Richard F. Cebull
RICHARD F. CEBULL
U.S. DISTRICT JUDGE

cc:

Natasha Prinzing Jones
AUSA James Seykora